

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

JAMES SEABA and CORY PHILLIPS,
Plaintiffs,
v.
MESOSYSTEMS TECHNOLOGY, INC.,
Defendant.

02 FEB 19 PM 2:47

R. Phillips
CORY PHILLIPS
Plaintiff

NO. CIV-02-0103 DJS/WWD

**DEFENDANT'S MOTION TO DISMISS OR TRANSFER FOR IMPROPER
VENUE**

Defendant MesoSystems Technology, Inc. ("MesoSystems") by and through its attorneys and pursuant to F.R.C.P. 12 (b)(3) or 28 U.S.C. §1406 respectfully request this Court dismiss this action for improper venue, or, in the alternative, transfer this matter to the Federal District Court for the Eastern District of Washington where venue properly lies.

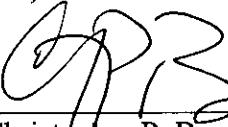
As grounds for this Motion, MesoSystems concurrently files its Memorandum in support of this Motion.

WHEREFORE, MesoSystems respectfully prays for dismissal of this action pursuant to F.R.C.P 12(b)(3) for improper venue and allow the parties to refile this action in state or federal court in Benton County, Washington, or, alternatively to transfer this action pursuant to 28 U.S.C. § 1406(a) to another Federal District Court for the Eastern District of Washington

DATED: February 19, 2002.

BAUMAN, DOW & McINTOSH, P.C.

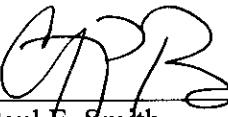
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Motion to Appear *Pro Hac Vice* was mailed via U.S. Mail to the following, on this 15 day of February, 2002.

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Angelo J. Artuso
Erin E. Langenwalter
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